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10 **BEFORE THE**  
**PHYSICAL THERAPY BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against: Case No. 1D-2002-62967  
13

14 ANDREW J. RAMIREZ  
1771 Smoketree Drive  
El Centro, CA 92243  
15

**AMENDED**  
**STATEMENT OF ISSUES**

16 Respondent.  
\_\_\_\_\_

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Steven K. Hartzell (Complainant) brings this statement of issues solely in  
21 his official capacity as the Executive Officer of the Physical Therapy Board of California,  
22 Department of Consumer Affairs.

23 2. On or about January 18, 2002, the Physical Therapy Board of California,  
24 Department of Consumer Affairs received an application for a physical therapist license from  
25 ANDREW J. RAMIREZ (Respondent). On or about January 9, 2002, ANDREW J. RAMIREZ  
26 certified under penalty of perjury to the truthfulness of all statements, answers, and  
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representations in the application. The Board denied the application on July 12, 2002. On or  
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about July 29, 2002, respondent requested a hearing to contest the denial of his application for  
licensure.

### JURISDICTION

3. This Statement of Issues is brought before the Physical Therapy Board of  
California (Board) , Department of Consumer Affairs under the authority of the below  
mentioned statutes and regulations.<sup>1</sup>

4. Section 2609 of the Code states:  
The board shall issue, suspend, and revoke licenses and approvals to  
practice physical therapy as provided in this chapter.

5. Section 2660 of the Code states:  
The board may, after the conduct of appropriate proceedings under the  
Administrative Procedure Act, suspend for not more than 12 months, or revoke,  
or impose probationary conditions upon, or issue subject to terms and conditions  
any license, certificate, or approval issued under this chapter for any of the  
following causes:

(d) Conviction of a crime which substantially relates to the qualifications,  
functions, or duties of a physical therapist. The record of conviction or a certified  
copy thereof shall be conclusive evidence of that conviction.

(i) Conviction of a violation of any of the provisions of this chapter or of  
the State Medical Practice Act, or violating, or attempting to violate, directly or  
indirectly, or assisting in or abetting the violating of, or conspiring to violate any  
provision or term of this chapter or of the State Medical Practice Act.

6. Section 2239 of the Code states:  
(a) The use or prescribing for or administering to himself or herself, of any  
controlled substance; or the use of any of the dangerous drugs specified in Section 4022,  
or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or  
injurious to the licensee, or to any other person or to the public, or to the extent that such  
use impairs the ability of the licensee to practice medicine safely or more than one  
misdemeanor or any felony involving the use, consumption, or self-administration of any  
of the substances referred to in this section, or any combination thereof, constitutes

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1. All statutory references are to the Business and Professions Code (Code) unless  
otherwise indicated.

unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

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7. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

8. California Code of Regulations (ACCR@), title 16, section 1399.20, states:

For the purposes of denial, suspension or revocation of a license or approval, pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license or approval under the Physical Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license or approval in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act.

(c) Violating or attempting to violate any provision or term of the Medical Practice Act.

#### CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Crime)

9. Respondent's application is subject to denial under Code sections

480(a)(1), 2660(d), 2660(i), and CCR, title 16, sections 1399.20(a) and (c), in that he was convicted of crimes substantially related to the qualifications, functions, or duties of a physical therapist. The circumstances are as follows:

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**Arrest of September 29, 2001; July 12, 2002 Conviction**

a. On or about September 29, 2001, the California Highway Patrol responded to a hit and run traffic accident involving a Chevrolet Silverado truck. The truck rolled over and sustained major damage. Respondent's father went to the scene of the accident and stated that his son (respondent) had been driving the vehicle at the time of the accident and that respondent was home. Respondent was driving the truck in an intoxicated condition and fled the scene. The officer went to respondent's residence and upon contact with respondent smelled the odor of alcoholic beverage on respondent's breath. Respondent admitted to drinking earlier and denied being in the accident. Respondent was asked to perform Field Sobriety Tests which he failed to perform satisfactorily. Respondent was placed under arrest for violating Vehicle Code sections 23152(a) and (b) [driving under the influence with a blood alcohol level at or greater than .08%]; Vehicle Code section 20002(a) [misdemeanor hit and run]; and Vehicle Code section 14601.5(a) [driving on a suspended driver's license]. He was given a breath test with results of .16% and .15%. Respondent stated to the officer, "I wouldn't have been driving if I didn't think I was OK to drive."

b. On or about April 15, 2002, a complaint was filed in Superior Court of California, County of Imperial, El Centro Department, entitled *The People of the State of California v. Andrew Jay Ramirez*, Case No. CM-07780-E, charging respondent with Count 1 - violating Vehicle Code section 23152(a) [driving under the influence of an alcoholic beverage and a drug and

1 under their combined influence, drive a vehicle] with a prior conviction dated  
2 February 26, 2001, for violating Vehicle Code section 23152(a) - driving under  
3 the influence of alcohol; Count 2 - violating Vehicle Code section 23152(b)  
4 [driving while having a 0.08% or higher blood alcohol] with a prior conviction  
5 dated February 26, 2001, for violating Vehicle Code section 23152(a) - driving  
6 under the influence of alcohol; Count 3 - violating Vehicle Code section  
7 14601.2(a) [driving when privilege suspended for prior DUI] with a prior  
8 conviction dated February 26, 2001, for violating Vehicle Code section 14601.5 -  
9 driving with knowledge of suspension of driving privilege; and Count 4 -  
10 violating Vehicle Code section 20002(A) [hit and run driving].

11 c. On or about July 12, 2002, respondent pled guilty and was  
12 convicted of violating Count 2 - violating Vehicle Code section 23152(b) [driving  
13 while having a 0.08% or higher blood alcohol] with a prior conviction. The  
14 imposition of sentence was suspended for five years and respondent was granted  
15 summary probation with terms and conditions, including but not limited to, fined;  
16 enroll and complete SB 38 program; and serve 96 hours county jail concurrent  
17 with Case No. CM-06322.

18 **Arrest of April 25, 2001; July 12, 2002 Conviction**

19 d. On or about April 25, 2001, respondent was arrested for  
20 evading an officer, reckless driving and driving when privilege suspended or  
21 revoked.

22 e. On or about October 19, 2001, a complaint was filed in  
23 Superior Court of California, County of Imperial, El Centro Department, entitled  
24 *The People of the State of California v. Andrew Jay Ramirez*, Case No. CM-  
25 06322-E, charging respondent with Count 1 - violating Vehicle Code section  
26 2800.1(a) [evading officer]; Count 2 - violating Vehicle Code section 23103(a)

1 [reckless driving]; and Count 3 - violating Vehicle Code section 14601.1(a)  
2 [driving when privilege suspended or revoked with priors] prior conviction of  
3 February 26, 2001 for violating Vehicle Code section 14601.5 driving with  
4 knowledge of suspension of driving privilege.

5 f. On or about July 12, 2002, respondent pled guilty and was  
6 convicted of violating Count 3 - violating Vehicle Code section 14601.1(a)  
7 driving when privilege suspended or revoked with priors. The imposition of  
8 sentence was suspended for five years and respondent was granted summary  
9 probation with terms and conditions, including, but not limited to, serving 30 days  
10 in county jail and fines.

11 **Arrest of March 12, 2000; February 26, 2001 Conviction**

12 g. On or about March 12, 2000, while respondent was driving  
13 his vehicle, he was stopped by the California Highway Patrol for speeding.  
14 Respondent was subsequently arrested for driving under the influence of alcohol.  
15 Respondent refused to submit to a chemical test.

16 h. On or about September 12, 2000, a complaint was filed in  
17 Superior Court of California, County of Imperial, El Centro Department, entitled  
18 *The People of the State of California v. Andrew Jay Ramirez*, Case No. CM-  
19 03517-E, charging respondent with Count 1 - violating Vehicle Code section  
20 23152(a) [driving while under the influence of an alcoholic beverage and a drug  
21 and under their combined influence, drive a vehicle] with a prior conviction on  
22 September 1, 1994, for violating Vehicle Code section 23152(b) [driving while  
23 having a measurable blood alcohol over .08%]. It was further alleged that  
24 respondent refused a peace officer=s request to submit to and willfully failed to  
25 complete a chemical test in violation of Vehicle Code section 23577.

26 i. On or about February 26, 2001, respondent pleaded guilty  
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1 and was convicted of Count 1 - violating Vehicle Code section 23152(a) [driving  
2 under the influence] with a prior conviction. He was granted three years  
3 summary probation with terms and conditions, including serving three weekends  
4 in county jail and fined \$1300. On or about July 12, 2002, a violation of  
5 probation hearing was held wherein probation was reinstated under the same  
6 terms and conditions with an additional 30 days in county jail to be served  
7 concurrent with Case No. CM-06322-E.

8 **Offense of August 3, 2000; February 26, 2001 Conviction**

9 j. On or about August 3, 2000, respondent was charged for  
10 driving while his license was suspended.

11 k. On or about October 10, 2000, a complaint was filed in  
12 Superior Court of California, County of Imperial, entitled *The People of the State*  
13 *of California v. Andrew Jay Ramirez*, Case No. CM-03608-E, charging  
14 respondent with violating Vehicle Code section 14601.5(a) [driving on a  
15 suspended license].

16 l. On or about February 26, 2001, respondent pled guilty and  
17 was convicted of violating Vehicle Code section 14601.5(a) [driving on a  
18 suspended license]. He was granted three years summary probation with terms  
19 and conditions, including, but not limited to, serving 10 days in county jail to run  
20 concurrent with Case No. CM 03517 E.

21 **Arrest of April 4, 1999; April 6, 1999 Conviction**

22 m. On or about April 4, 1999, respondent was arrested for  
23 driving without holding a valid driver=s license.

24 n. On or about April 6, 1999, a complaint was filed in  
25 Municipal Court of California, County of Imperial, El Centro Department,  
26 entitled *The People of the State of California v. Andrew Jay Ramirez*, Case No.

1 M94391-E, charging respondent with Count 1 - violating Vehicle Code section  
2 12500(a) [unlawful to drive unless licensed] and Count 2 - violating Penal Code  
3 section 148(a) [resist, obstruct, delay of peace officer or EMT].

4 o. On or about April 6, 1999, respondent pled guilty and was  
5 convicted of Count 1 [unlawful to drive unless licensed] and Count 2 - violating  
6 Penal Code section 148(a) [resist, obstruct, delay of peace officer or EMT]. He  
7 was placed on summary probation for a period of three years with terms and  
8 conditions, including, but not limited to, serving three days in county jail.

9 **Arrest of August 5, 1998; April 5, 1999 Conviction**

10 p. On or about August 5, 1998, respondent was arrested and  
11 charged with resisting arrest and public intoxication.

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13 q. On or about August 31, 1998, a complaint was filed in  
14 Imperial County Municipal Court of California, Brawley Department, entitled *The*  
15 *People of the State of California v. Andrew Jay Ramirez*, Case No. M52937B,  
16 charging respondent with Count 1- violating Penal Code section 148(a) [resist,  
17 obstruct, delay of peace office or EMT] and Count 2 - violating Penal Code  
18 section 647(f) [public intoxication].

19 r. On or about April 5, 1999, respondent pled guilty and was  
20 convicted of Count 2 - violating Penal Code section 148(a) [resisting arrest] and  
21 Penal Code section 647(f) [public intoxication]. Respondent served three days in  
22 county jail and fined \$150.00. Count 1 was dismissed.

23 **Arrest of May 22, 1994; September 1, 1994 Conviction**

24 s. On or about May 22, 1994, respondent was arrested for  
25 driving under the influence of alcohol.

26 t. On or about September 1, 1994, in Los Angeles County  
27



1 Superior Court, Van Nuys, Case No. 94D02503, respondent pled guilty and was  
2 convicted of violating Vehicle Code section 23152(b) [driving a vehicle with a  
3 0.08% or more of alcohol in his blood]. He was fined and granted three years of  
4 probation with terms and conditions.

5 SECOND CAUSE FOR DENIAL OF APPLICATION

6 (Use of Alcohol)

7 10. Respondent=s application is further subject to denial under Code sections  
8 2239(a), 2660(i), and CCR, title 16, sections 1399.370(a) and (c), in that he used alcohol to the  
9 extent or in such a manner to be dangerous or injurious to himself or to any other person or  
10 public, or to the extent that such use impairs the ability of the licensee to practice safely or more  
11 than one misdemeanor involving the use, consumption, or self-administration of alcohol, as more  
12 particularly described in paragraph 9 above, which is incorporated herein in its entirety.

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15 THIRD CAUSE FOR DENIAL OF APPLICATION

16 (Performance of an Act If Done by Licentiate Grounds for Suspension or Revocation of License)

17 11. Respondent's application is further subject to denial under Code sections  
18 480(a)(3), and CCR, title 16, sections 1399.370(a) and (c), in that he committed acts if done by  
19 a licentiate would be grounds for suspension or revocation of license, as more particularly  
20 described in paragraphs 9, 10, 12, 13, 14, 15, and 16, which are incorporated herein their  
21 entirety.

22 AGGRAVATING CIRCUMSTANCES

23 Arrest of May 1, 2003

24 12. On or about May 1, 2003, respondent was pulled over by the California  
25 Highway Patrol for speeding and running a red light. Upon contact with respondent, the officer  
26 smelled a strong odor of an alcoholic beverage emitting from respondent=s breath. The officer

1 also noticed that respondent had red and watery eyes with slurred speech. Respondent admitted  
2 to the officer to drinking beer. Respondent failed to perform the field sobriety tests as explained  
3 and demonstrated by the officer. Respondent was placed under arrest and taken to El Centro  
4 Regional Medical Center for a chemical test and then transported to the county jail and charged  
5 with violating Vehicle Code section 23152(a) and (b). He was also served with a DL-310,  
6 written notice of suspension. The case is pending.

7 **Arrest of July 20, 2000**

8 13. On or about October 10, 2000, a complaint was filed in Superior Court of  
9 the State of California, County of Imperial, El Centro Department, entitled *The People of the*  
10 *State of California v. Andrew Jay Ramirez*, Case No. CM-03619-E, charging respondent with  
11 violating Vehicle Code section 14601.2(a) [driving when privilege suspended for prior DUI].

12 14. On or about February 26, 2001, pursuant to a plea in Case No. CM-03608-  
13 paragraph 9j - 9l , the charge of violating Vehicle Code section 14601.2(a) in Case No. CM-  
14 03619-E, was dismissed.

15 **Arrest of April 3, 1995**

16 15. On or about April 21, 1995, a complaint was filed in the Municipal Court  
17 of Los Angeles Judicial District, County of Los Angeles, State of California, entitled *The People*  
18 *of the State of California v. Andrew Ramirez*, Case No. 95F02181, charging respondent with  
19 violating Penal Code section 594(a) [vandalism].

20 16. On or about April 5, 1999, respondent failed to appear for a jury trial  
21 without a legal excuse. His release on his own recognizance was revoked and a bench warrant  
22 was issued. Bail was set at \$35,000. The case is still unresolved.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
25 alleged, and that following the hearing, the Physical Therapy Board of California issue a  
26 decision:

- 1                   1.       Denying the application of ANDREW J. RAMIREZ for a Physical  
2 Therapy license;  
3                   2.       Taking such other and further action as deemed necessary and proper.  
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5 DATED: May 12, 2003  
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7                                   Original signed by Steven K. Hartzell  
8                                   STEVEN K. HARTZELL  
9                                   Executive Officer  
10                                  Physical Therapy Board of California  
11                                  Department of Consumer Affairs  
12                                  State of California  
13                                  Complainant

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17 03575160-SD2002AD0826  
18 pt/ramirez-amendedsoi-new  
19 jv 5/9/03  
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